



Benjamin W. Hulse
Direct Dial: 612-343-3256
E-Mail: bhulse@blackwellburke.com

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VIA ECF

The Honorable Joan N. Ericksen
District Judge, District of Minnesota
United States District Court
12W U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

RE: *In re Bair Hugger Forced Air Warming Devices Products Liability Litigation*
MDL 15-2666-JNE-DTS

Dear Judge Ericksen:

I am writing to update the Court on Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order 14 (ECF No. 1387). This Motion concerns PFS deficiencies.

This month, more than half the Plaintiffs subject to the Motion served amended PFSs after the Motion was filed. Following review of the amended PFSs and discussions between the parties' counsel, Defendants will no longer be seeking dismissal of *Zimmerman* (17-02925), *Gorbett* (17-03252), *Cyr* (17-03554), *Parker* (17-03573), *Pratt* (17-03952); *Rude* (17-04009), *Robertson* (17-04327), *Robertson* (17-04328), *Ingram* (17-04470), *Henderson* (17-04517), *Hyer* (17-04752), *Murray* (17-04845), *Thornton* (17-04889), *Edwards* (17-04891), *Johnston* (17-05270), *Billings* (17-05277), *Jones* (17-05472), *McCullough* (18-00437), *Garrison* (18-00444), *Morgan* (18-00527), *Larrison* (18-00609), and *Hayes* (18-00617) as part of this motion.

The parties have also stipulated to dismissal of *Smith* (17-03501) and *Coggins* (17-04257).

There does appear to be an increasing practice among some Plaintiffs' counsel to wait to fix core deficiencies until after Defendants have filed their motion to dismiss. This practice wastes Defendants' time – and sometimes the Court's time – and must stop. Under PTO 14, all cases are placed on the Court's agenda for two months before Defendants may seek dismissal, and Plaintiffs have ample opportunity to cure deficiencies before the Motion is filed. If this trend persists, Defendants will request an amendment to Pretrial Order No. 14 to provide that a case will be dismissed if the core deficiencies are not resolved during the pre-motion cure period.

Sincerely,

s/Benjamin W. Hulse

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